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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 EUGENE EVERETT WELCH,

11 Plaintiff,

No. CIV S-03-0072 LKK JFM P

12 vs.

13 CALIFORNIA DEPARTMENT  
14 OF CORRECTIONS, et al.,

15 Defendants.

ORDER

16 Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to  
17 42 U.S.C. § 1983. Several matters are pending before the court.

18 On April 29, 2005, plaintiff filed a motion for a court order requiring prison  
19 officials to return his television and radio. On May 27, 2005, the court issued a notice setting a  
20 briefing schedule for said motion. On June 13, 2005, defendants filed a request for a thirty day  
21 extension of time to file their response. Good cause appearing, defendants' request will be  
22 granted.

23 On June 2, 2005, plaintiff filed a request for an order requiring defendants to  
24 provide him with documents that he contends are relevant to his claims. It is not clear whether  
25 plaintiff has previously served defendants with a request for production of documents, or whether  
26 this document should be construed as such a request. In either event the request is untimely, as

1 discovery is closed in this action. See Scheduling Order filed January 30, 2005, at 5. Plaintiff's  
2 request will therefore be denied.

3           On May 31, 2005, defendants filed a motion for summary judgment. On June 21,  
4 2005, plaintiff filed an opposition thereto. On June 23, 2005, plaintiff filed a letter to the Clerk  
5 of the Court, requesting a "new scheduling order," information on the deadline for filing an  
6 opposition to defendants' motion for summary judgment, and a request for blank subpoena  
7 forms.<sup>1</sup> Plaintiff is informed that the Clerk of the Court does not issue scheduling orders in this  
8 action. Said orders are issued by this court and are served on plaintiff by the Clerk of the Court.  
9 Plaintiff has timely filed an opposition to defendants' motion. Plaintiff has provided no  
10 information as to why he requires blank subpoena forms, so his request for said forms will be  
11 denied without prejudice.

12           On June 29, 2005, defendants filed a request for relief from filing a pretrial  
13 statement due to the pendency of their summary judgment motion. Good cause appearing, the  
14 dates for filing pretrial statements, for pretrial conference, and for jury trial will be vacated and  
15 will be reset, if appropriate, following resolution of defendants' pending motion for summary  
16 judgment.

17           Finally, on July 6, 2005, plaintiff filed a motion for an order requiring prison  
18 officials not to require plaintiff to send his television and radio home or to otherwise dispose of  
19 these items until this action is concluded. Plaintiff contends that prison officials have threatened  
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21           <sup>1</sup> This document was not served on defendants. Plaintiff is advised that every document  
22 submitted to the court for consideration must be served on defendants. Fed. R. Civ. P. 5.  
23 Plaintiff is required to serve all documents in this action conventionally in accordance with the  
24 relevant provisions of Fed. R. Civ. P. 5. See Local Rule 5-135(b). Since an attorney has filed a  
25 document with the court on behalf of defendants, documents submitted by plaintiff must be  
26 served on that attorney and not on the defendant. Fed. R. Civ. P. 5(b)(1). Conventional service  
is usually accomplished by mailing a copy of the document to the attorney's address of record.  
See Fed. R. Civ. P. 5(b)(2)(B). Plaintiff must include with every document filed in this action a  
certificate stating the date an accurate copy of the document was mailed to defendants' attorney  
and the address to which it was mailed. See Local Rule 5-135(b) and (c).

1 to dispose of the items by July 15, 2005. Good cause appearing, counsel for defendants will be  
2 directed to respond to this motion within five days from the date of this order.

3 In accordance with the above, IT IS HEREBY ORDERED that:

4 1. Defendants' June 13, 2005 request for an extension of time is granted;

5 2. Within thirty days from the date of this order defendants shall file and serve a  
6 response to plaintiff's April 29, 2005 motion;

7 3. Plaintiff's June 23, 2005 request for blank subpoenas and for a new scheduling  
8 order is denied without prejudice;

9 4. Plaintiff's June 21, 2005 opposition to defendants' motion for summary  
10 judgment is timely filed;

11 5. Defendants' June 29, 2005 request for relief from filing a pretrial statement is  
12 granted;

13 6. The deadlines set for filing pretrial statements are vacated;

14 7. The July 22, 2005 pretrial conference set before the undersigned and the  
15 October 11, 2005 jury trial set before the Honorable Lawrence K. Karlton are vacated;

16 8. Dates for filing pretrial statements, for pretrial conference, and for jury trial  
17 will be reset, as appropriate, following resolution of defendants' motion for summary judgment;  
18 and

19 9. Within five days from the date of this order defendants shall file and serve a  
20 response to plaintiff's July 6, 2005 motion for a court order requiring prison officials to refrain  
21 from disposing of plaintiff's television and radio during the pendency of this action.

22 DATED: July 15, 2005.

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25 UNITED STATES MAGISTRATE JUDGE  
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